

**CHAPTER 7**

# **ENDING THE LICENSING RELATIONSHIP**

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This chapter will discuss the different ways the licensing relationship can end. It will tell you about termination, the most cooperative—and thus more preferred—method of ending the licensing relationship. It will also tell you about revocation, which is often a contentious, complex process that can be appealed by foster parents. Perhaps most importantly, it will tell when and why to use each method of ending the licensing relationship.

## **Termination**

Foster home licenses are issued for a two-year period. If all the relicensing materials have not been received by the Licensing Authority by the end of that two-year period, the license will automatically terminate. In other words, the license terminates if it is not renewed.

Terminations can also be requested from the Licensing Authority when the Supervising Agency and the foster family mutually agree it will be in everyone's best interest. In more detail, here are four ways that terminations generally take place.

### **Common Termination Scenarios**

#### **1. Mutual agreement**

The request to terminate a license must be a mutual decision between the foster parents and Supervising Agency. There are various reasons the decision to terminate a license may be reached: a family may not be able to fulfill the

obligations of fostering due to other life obligations; they may no longer desire to foster; or maybe they have adopted a child. In these types of circumstances it is good to come to a mutual agreement to end the licensure relationship, and submit a termination packet that documents the reason for termination. Submitting a termination packet will also provide an opportunity to document any concerns noted while the family was licensed.



**It's very important to follow the necessary time line so that homes do not become unavailable due to late paperwork.**

**2. No reply to attempts to contact**

The Supervising Agency may have extreme difficulty contacting the foster family, giving the agency strong, indirect evidence that the family no longer wishes to foster. Examples of convincing, indirect evidence of a family's disinterest in continuing to foster include moving without telling the agency and ignoring the agency's repeated efforts to contact them. In these cases, it is best practice to send a certified letter to the family documenting your attempts to contact them and informing them that if they do not reply by a specific date your agency will assume they mutually agree to have their license terminated. Foster parent signatures are not required in this instance.

**3. Automatic termination due to failure to relicense (lapse)**

In this instance the foster home may be in good standing with the agency, but the relicensing paperwork is not submitted to the Licensing Authority on time. This should never happen if you keep good track of when to begin the relicensing process for each family. If children are placed in the home at the time the license expires, the placement becomes illegal. (*For more on this see "Frequently Asked Questions" in this section. See Chapter 4 for an example of how to track the relicensing process for your families.*) As you get to know your families, you can adjust timelines based on how responsive or difficult to reach a particular family might be.

There is one circumstance where allowing a license to lapse is appropriate. The Supervising Agency and foster parents, for reasons outlined in item one above, may mutually agree to allow the license to lapse by not submitting a relicensure packet. Though a termination packet is not needed in this circumstance because the license will automatically terminate, it is good to submit a letter to the Licensing Authority so the reason for termination can be on file for future reference.

If a license terminates or lapses due to failure to relicense the home can be re-licensed if the paperwork is submitted to the Licensing Authority **within a year** of when the license terminated. The renewed license period will be from the date the relicensure packet is complete and the licensure period will be 24 months. For example, if a family's original license period is from January 2005 through

January 2007 but the Supervising Agency fails to submit a completed relicensure packet by January 2007, the license automatically terminates. If a complete relicensure packet is submitted in May 2007, the family's new license period would be from May 2007 thorough May 2009.



**If the license has been terminated for more than a year, a new application must be submitted.**

If the license has been terminated for more than a year, a new application must be submitted. If the foster parents have not been licensed for two years, they will also have to demonstrate continued mastery of the 12 parenting skills to the Supervising Agency, or they need to retake the 30-hour pre-service training. Therapeutic foster parents also have to demonstrate continued mastery of the six therapeutic skills to the Supervising Agency, or retake 10 additional hours of specific behavioral mental health training. (See the section on the Mutual Home Assessment in Part 3 for ideas about how families might demonstrate parenting skills.)

**4. Allowing a license to lapse due to the reluctance of a Supervising Agency to use a foster home**

In some instances an agency may choose not to place children in the home of a foster family due to concerns regarding the family's abilities to provide foster care for children. Foster families do not have a right to have children placed in their home. Child placement is a privilege, something that is done at the discretion of the Supervising Agencies. Best practice is to make placement decisions based on what the Supervising Agencies understand to be in the children's best interests.



**If agencies shirk their responsibility to follow up on legitimate concerns, unsuitable families may move on to become licensed with another agency, thereby putting children at risk.**

However, simply allowing foster home licenses to lapse due to unaddressed or unresolved identified needs of the foster parent is neither ethical nor good practice. It is not fair to foster parents, who have devoted their time and resources in the hopes of caring for a child, only to be continually passed over without explanation. The "lapsing" path to termination can also be dangerous to children—if agencies shirk their responsibility to follow up on legitimate concerns, unsuitable families may move on to become licensed with another agency, thereby putting children at risk.

In the following sections, the importance of an honest and ethical relationship with foster parents is discussed in detail. If you have concerns about a foster family, you should discuss them with the family in an open, respectful way. If you

need help, speak with your supervisor and colleagues. These are some of the most difficult conversations to have with families, but they are also crucial to maintaining safe foster placements for children. There may be times when additional training or support can address your concerns. If not, families deserve to know that your concerns are preventing you from placing a child in their home. In some cases, the family may transfer their license and go on to have a productive relationship with another agency. In other cases, the family may be unsuitable as foster parents. Again, confer with your supervisor on what remediation may be available, and try to keep lines of communication open.

## Revocation

When a foster home license is revoked, it is unilaterally rescinded by the Licensing Authority for serious infractions of the rules that may endanger children. Supervising Agencies do not have the authority to revoke a foster care license; rather, when warranted they should submit a request to the Licensing Authority to revoke a license.



**Supervising Agencies do not have the authority to revoke a foster care license.**

The three most common reasons for revocation are (1) the foster parent is found by child protective services to have abused or neglected a child and the appeals process has been resolved, (2) the foster parent has used corporal punishment (i.e., struck a foster child), and (3) the foster home is not in compliance with licensing standards, and the nature of the non-compliance and child's circumstances are concerning enough to warrant immediate administrative action.

Revocation is often a contentious and drawn-out legal procedure. It is important to work collaboratively within your agency and with the Licensing Authority to determine when revocation is necessary. Even though it can be difficult, **revocation is safer for children** than merely allowing a foster home license to expire or opting not to place children in the home.

Supervising Agencies should use the DSS-5279 when they wish to recommend that the Licensing Authority revoke a foster family's license. Decisions to revoke are made by the Division's foster care licensing consultants, the section chief, foster care licensing manager, and child welfare attorney. To ensure these individuals have the information they need to make the decision, Supervising Agencies must provide specific, detailed information to the Licensing Authority when requesting revocation.

If the Licensing Authority approves your revocation request, you must explain to the foster parents why their license has been revoked and ask them to return their revoked license to you so you can return it to the Licensing Authority. Your explanation of the reason for the revocation must be clear and factual, since it is possible that it will be subject to the scrutiny of an appeals judge (see below).

## Appeals

When a foster home license is denied or revoked, foster parents have the right to appeal to the Administrative Office of the Courts. Appeal procedures are specified in 10A NCAC 70L.0301. If the Licensing Authority's action is reversed on appeal, the license is approved back to the date of the denied application or the date of revocation if all qualifications are met.

When appeals occur, licensing professionals are usually asked to appear in court as primary witnesses. Appeals of revocations and denials are fairly common—most experienced licensing professionals have been called to testify in court more than once. The fact that you may be asked to stand by your records in court underscores the importance of comprehensive and consistent documentation.



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## Termination/Revocation in the Context of an Investigative Assessment

It is not uncommon for a foster family under investigation for alleged abuse or neglect of foster children to approach the Supervising Agency with a request that their license be terminated because they mistakenly believe this will end their involvement with CPS. However, by law, the investigative assessment must be thoroughly completed once the report is accepted.

If there is a finding of abuse or neglect, the Supervising Agency must explore with the foster parents whether termination, revocation, or continued licensure are appropriate.

If a Supervising Agency wishes to request a revocation it must provide the Licensing Authority with specific information about incidents or circumstances that have led to the request. If a foster parent violates rules, is substantiated for abuse or neglect, or is convicted of a crime it may be appropriate for the Supervising Agency to request revocation. It is important that these incidents are carefully staffed within your agency and recommendations are made to the Licensing Authority accordingly. Please remember that county departments of social services can share case decisions and other child protective services information with the Licensing Authority. Revocation requests are staffed with NC Division of Social Services management staff and child welfare attorneys.

The Supervising Agency can make a request for revocation. The Licensing Authority makes the final decision about the family's licensing status.

## The Perfect Termination/Revocation Package

A description of the “perfect” termination packet can be found in the box below. Although samples of these forms have been provided in earlier chapters, for your convenience we have included in this chapter a sample of the DSS-5157 for termination. Please note that for terminations, signatures of the agency social worker and at least one foster parent are required. In the event that a foster parent is not available to sign, please indicate the reasons per the instructions for Part II of the form.

In the instance that you have two foster parents on a license and one foster parent wishes to terminate their foster parent status due to leaving the home, the departing parent’s signature is required on the DSS-5157. In the event that this foster parent is not available to sign, a reason must be documented as indicated on the DSS-5157.

### The Perfect Termination/Revocation Package

- Cover letter, including the reason for termination or, for revocation, the regulation or policy the family is not meeting.
- Foster Care Facility License Action Request (DSS-5015)
- Relicense, Change, and Termination Request Application (DSS-5157)

### Things to Remember for All Forms

- Fill in all required information, date all documents, and gather required signatures.
- Please do not fax any documents without prior approval from a licensing consultant.
- Effective date.
- To ensure your request is processed expediently, always use a copy of your turnaround DSS-5015.

In this chapter you will also find a copy of the Notice of Administrative Action Letter that a family receives from the Licensing Authority when their foster care license is revoked.

## **1. Sample Revocation Letter**



**North Carolina Department of Health and Human Services  
Division of Social Services  
Regulatory and Licensing Services**

952 Old U.S. Highway 70, Black Mountain, North Carolina 28711

Telephone: (828) 669-3388 ■ Fax: (828) 669-3365

Michael F. Easley, Governor  
Carmen Hooker Odom, Secretary

Sherry B. Bradsher, Director

**VIA CERTIFIED LETTER**

**NOTICE OF ADMINISTRATIVE ACTION**

**Type of Action:**      **Revocation of Family Foster Home License**

**Applicant(s):**

, North Carolina,

**Agency:**

**Date:**

**PLEASE TAKE NOTICE** that the North Carolina Department of Health and Human Services, Division of Social Services has determined that your home does not comply with all the rules for licensure as a family foster home and is, therefore, revoking your license to operate as a family foster home. Upon implementation of this revocation, you will be ineligible to be licensed to operate a foster home, a child day care home, or a child group home for a period of sixty (60) months.

**AREA OF NON-COMPLIANCE WITH RULES:**

Pursuant to North Carolina General Statute 131D, Article IA, the Social Services Commission has adopted rules governing the licensure of family foster homes. The rules governing the licensure of family foster homes are found under Title 10A: Chapter 70E of the North Carolina Administrative Code. The rules with which your home does not comply include:

**BASIS FOR ACTION:**

**EFFECTIVE DATE OF ACTION:**

Unless you pursue appeal of this action in the manner and within the time limits as outlined below your license will be revoked effective sixty (60) days from the date you receive this notice. A proper appeal will suspend the revocation of your license until the appeal is resolved.

**PROCEDURES FOR APPEAL:**

**A.      Petition**

You may appeal the revocation of your license as a family foster home by requesting a contested case hearing before an Administrative Law Judge. You request a hearing by filing a Petition for a Contested Case Hearing with the Office of Administrative Hearings. A petition is filed by simply mailing the original and one copy of the petition to the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714.

Notice of Administrative Action Letter:  
, 2005

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You may obtain a **petition form** by writing to the Clerk of the Office of Administrative Hearings at the above address or by calling (919) 733-2698. If you do not use the petition form, your request for a hearing must meet the requirements of a petition as set forth in North Carolina General Statute 150B-23. Your petition must name the Department of Health and Human Services (not the county Department of Social Services) as the Respondent in the case.

**B. Certificate of Service:**

Your petition must include a Certificate of Service that shows you have served a copy of the petition on the Department of Health and Human Services. The **petition form** referred to above includes a Certificate of Service section. You may serve a copy on the Department of Health and Human Services by simply mailing a copy of the Certificate of Service to Ms. Satana T. Deberry, General Counsel, Department of Health and Human Services, Office of Legal Affairs, 2001 Mail Service Center, Raleigh, NC 27699-2001. Therefore, when you mail the original and one copy of the petition and certificate of service to the Office of Administrative Hearings, you should at the same time, mail a copy of the petition to Ms. Deberry.

**C. Time Limits:**

To preserve your right to appeal, your Petition for a Contested Case Hearing must be actually received by the Office of Administrative Hearings with sixty (60) days of the date you receive this notice. You must allow sufficient time for the document to arrive by mail. Unless your petition and certificate of service are received by the Office of Administrative Hearings within this time limit, your right to appeal may be lost.

**D. Summary:**

- Obtain a petition form by writing or calling the Office of Administrative Hearings.
- Complete the petition form being sure to name the Department of Health and Human Services as the Respondent.
- Complete the Certificate of Service section of the petition form indicating that you are mailing a copy of the petition to Ms. Deberry.
- Mail the original and one copy of the petition and certificate of service to the Office of Administrative Hearings.
- Mail a copy of the petition to Ms. Deberry at the Department of Health and Human Services.
- Allow time for your petition and certificate of service to be received by the Office of Administrative Hearings within the prescribed time limit.

Sincerely,

Jo Ann Lamm, Section Chief  
Family Support and Child Welfare Services

cc: David Gordon, Office of the Attorney General  
, Director,



## **Frequently Asked Questions**

**What happens if there are children in a home but relicensing paperwork has not been received by the Licensing Authority in time?**

The placement becomes illegal and the custodian of the child becomes legally liable for the child's safety and well-being. Licensing professionals and their supervisors may also be held personally liable, which means that their personal assets (e.g., house, car, savings) could be at risk. To avoid this liability, agencies usually take one of the following actions:

- Move the child to a licensed placement. Although this solution eliminates the legal vulnerability, it risks inflicting further trauma on a child, especially if the child's current placement is stable and there is a bond between the child and his or her foster parents.
- Ask a court to make this (currently) unlicensed placement the court-ordered placement for the child. Although this solution eliminates legal vulnerability, it also means that in most cases federal and state dollars cannot be used for the care of the child.

**Why have we (Supervising Agency) received a turnaround DSS-5015 indicating a license has been terminated when a relicensure packet was submitted near or on the date the licensure period ended?**

It takes approximately 10 work days for the Licensing Authority to process, review, approve, and enter data in the Foster Care Licensing System (FCLS). When packets are received very close to or on the date a license is due to lapse, this does not provide enough time for the relicensure packet to be processed and information to be updated in the FCLS. The FCLS automatically terminates a license if a relicensure is not entered on or before the date the licensure period ends and a DSS-5015 turnaround is automatically produced and sent to the Supervising Agency. However, in this instance, if the relicensure packet was complete, the license will be reissued without a lapse, producing a new DSS 5015 turnaround and license.

To avoid receiving these automatic notices of termination it is strongly recommended that Supervising Agencies submit relicensure packets at least 4 weeks or 1 month before the license period ends. This will allow plenty of time for processing by the Licensing Authority and for additional information to be provided if requested without a termination notice being issued.